

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JAMES RUTHERFORD	)	
	)	
Plaintiff,	)	
	)	Case No. 15 CV 1682
	)	
v.	)	
	)	Judge Jorge L. Alonso
JOSE MERLOS, JESSE'S MEXICAN	)	
GRILL and FUNG YEE TAM	)	
	)	
Defendants,	)	

**JUDGMENT ORDER**

This Court, having subject matter jurisdiction over this action under 42 U.S.C. §12188(a)(1), and having carefully considered the motion by Plaintiff, James Rutherford, for default judgment against Defendants, Jesse's Mexican Grill ("Briarwood Plaza"), located at 6950 N. Western Ave., Chicago, IL, 60645 ("Facility"), Fung Yee Tam, as landlord of the property where Jesse's Mexican Grill is located, and Jose Merlos, as owner of Jesse's Mexican Grill (the three Defendants collectively known as "Defendants"), and for an order granting corresponding relief requested in the Plaintiff's Complaint and Motion for Default Judgment, and having carefully considered all arguments of the parties regarding the Motion, and there appearing good cause for granting the relief requested, the Motion is GRANTED, default judgment for Plaintiff, and against Defendants, is GRANTED and shall be promptly entered on the claims for relief enumerated in Plaintiff's Motion for Default Judgment, and it is hereby ORDERED:

**A. Injunctive Relief:**

Having violated the design and construction requirements of the ADA, and denied Plaintiff full and equal enjoyment under the same, Defendant are required, within 90 days form

the entry of this order, to remove those architectural barriers in accordance with ADA § 308(a)(1), and to take whatever measures are necessary to provide Plaintiff “full and equal enjoyment” of the Facilities, which include:

(1) Modifying the Facility so that the entrance door to the men’s public restroom is at least 32 inches wide when opened at 90 degrees, in compliance with Sections 4.13.5 and 4.3.9 of the 1991 ADA Accessibility Guidelines (“1991 Standards”), and the corresponding section of the 2010 ADA Accessibility Guidelines (“2010 Standards”). 28 CFR § 36, App. A, §§ 4.3.9 and 4.13.5; 36 CFR Part 1191, App. B & D; 28 CFR 36, subpart D.

(2) Modifying the Facility so that the entrance doors to the main entrance and men’s restroom has handles, which do not require tight grasping, tight pinching, or twisting of the wrist to operate, in compliance with of Section 4.13.9 of the 1991 Standards and the corresponding section of the 2010 Standards. 28 CFR §36, App. A, § 4.13.9; 36 CFR Part 1191, App. B & D; 28 CFR 36, subpart D.

(3) Modifying the Facility so that the centerline of the water closet in the men’s restroom is 18 inches to the nearest wall in compliance with section 4.16.2 (Fig. 28) of the 1991 Standards and the corresponding section of the 2010 Standards. 28 CFR § 36, App. A, § 4.16.2 (Fig. 28); 36 CFR Part 1191, App. B & D; 28 CFR 36, subpart D.

(4) Modifying the Facility so that grab bars are installed on the walls to the side and rear of the water closet in compliance with Section 4.16.4 of the 1991 Standards and the corresponding section of the 2010 Standards. 28 CFR Part 36, App. A, § 4.16.4 (Fig. 29); 36 CFR Part 1191, App. B & D; 28 CFR 36, subpart D.

## **B. Attorneys’ Fees and Costs**

Award Plaintiff’s Attorneys’ Fees and Costs. A hearing on Plaintiff’s Petition for

Attorney's Fees and Costs is set for 11/12/15 at 9:30 a.m. Counsel for Plaintiff will submit a petition for attorneys' fees and costs to this Court once this Order on Motion for Default Judgment is entered against the Defendants and it is determined that Plaintiff is the "prevailing party" in accordance with the Northern District of Illinois Local Rules and Title III of the ADA. 28 C.F.R § 36.505.

10/29/15

SO ORDERED

A handwritten signature in black ink, appearing to be "JL Alonso", enclosed within a large, loopy oval stroke.

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Jorge L. Alonso  
United States District Court Judge